To: Administrators of Special Education, Directors of Educational Collaboratives and Interested Parties  

From: Russell Johnston, Senior Associate Commissioner, District Support  

Date: September 5, 2017  

Subject: Revised Procedures for Special Education Public Day School Programs  

The Department of Elementary and Secondary Education recently completed a review and revision of the procedures for public day programs as required under 603 CMR 28.00.  

**Summary:** The Department has determined that public day schools will no longer be required to seek annual reapproval for operation.  

Henceforth, once a public day school is approved to operate by the Department at its inception, the school will remain in an approved status thereafter until and unless the Department takes further action in regard to that status. Public day school compliance with regulatory standards will be continue to be reviewed on an ongoing basis as it presently is with all other publically funded educational programs in the State: through the Department’s Public School Monitoring process.  

Public day schools continue to have the following ongoing duties:  

- Ensure that all required health and safety inspections are conducted in a timely manner  

<table>
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<tr>
<th>Approvals, Licenses, Certificates of Inspection</th>
<th>The program has current approvals, and certificates of inspection by state and local agencies, including: Safety Inspection. The school shall have an appropriate certificate of inspection from the Department of Public Safety or the local building inspector for each building to which students have access; Fire Inspection. The school shall obtain a written report of an annual fire inspection from the local fire department; and Local Board of Health permit for food services. (USDA regulations require all national school lunch program funds recipients to obtain an inspection from the local Board of Health twice annually, even if they are only “serve-only” sites.)</th>
<th>Documentation: Obtain and keep available for review current licenses, approvals, and certificates of inspection</th>
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<tr>
<td>18.04(1); 28.09(2)(b)(5); 28.09(5) (b); 28.09(6) (b, c)</td>
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• Notify the Department in the event of a **significant program change** (Form 1), or in the event of a serious incident (Form 2) (See: [http://www.doe.mass.edu/pqa/sa_nr/](http://www.doe.mass.edu/pqa/sa_nr/))

• Request **waivers for class size or age span exemptions** as required by the regulations (See: [http://www.doe.mass.edu/pqa/sa_nr/](http://www.doe.mass.edu/pqa/sa_nr/))

• Remain **current and updated** in regard to any changes in law or regulation by regularly reviewing Department guidance and publications

All requirements continue to apply to all approved public day programs as described in applicable regulations. If the Department determines that a public day school is not meeting applicable requirements, it may be placed on probationary status by the Department, as described below:

**Probationary Approval**

The Department shall place a program on Probationary Approval if it becomes aware of conditions at the program that, in the Department’s judgment, compromise the program’s ability to provide a safe, healthy and appropriate educational environment. In such circumstances, the Department shall provide written notice of the Probationary Approval, the circumstances that caused the Department to take such action, and the actions necessary to correct the problem. Refer to 603 CMR 28.09(4) for an additional detailed explanation of standards and procedures in cases where the Department issues notice of Probationary status to a program. The Department makes public notice on its website at [http://www.doe.mass.edu/pqa/](http://www.doe.mass.edu/pqa/) in all cases where it has determined that a program must be issued such an approval.

**Certificate of Approval to Operate**

Because public day school approval certificates previously issued contain expiration dates that no longer apply, a copy of this memo can be printed and attached to your existing approval for purposes of establishing compliance. The ongoing approval status described in this memo only applies to public day schools that received a full approval for the 2016-2017 school year.

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**Questions regarding these changes may be directed to your Problem Resolution System (PRS) Specialist. For a complete listing of PRS Specialist staff, click HERE, or go to:**

[http://www.doe.mass.edu/pqa/prs/specialist-list.html](http://www.doe.mass.edu/pqa/prs/specialist-list.html)